

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**JOSEPH TEHANDON,**

**Plaintiff,**

**v.**

**PENSKE TRUCK LEASING CO., LP, and**

**PENSKE TRUCK LEASING CORP.,**

**Defendants.**

**Case No. 4:23-CV-183 PLC**

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff Joseph Tehandon’s Consent Motion to Stay the proceeding under the Servicemembers Civil Relief Act, 50 U.S.C. §3901 *et seq.* (the Act) [ECF No. 26] and Application for Stay Under the Servicemembers Civil Relief Act [ECF No. 27]. After careful consideration, the Court denies Plaintiff’s Consent Motion to Stay [ECF No. 26] and grants Plaintiff’s Application for Stay under the Act [ECF No. 27].

**I. Background**

Plaintiff filed this employment discrimination case in the Circuit Court of the City of St. Louis against his employer Defendants Penske Truck Leasing Co., LP and Penske Truck Leasing Corporation. [ECF No. 7] Defendants removed the action to this Court. [ECF No. 1] On May 3, 2023, the Court entered a Case Management Order and an Order Referring the Case to Alternative Dispute Resolution. [ECF Nos. 24 & 25]

On June 16, 2023, Plaintiff filed his Consent Motion to Stay, moving to stay the proceeding under the Act. [ECF No. 26] Plaintiff did not file any documentation in support of the motion. [ECF No. 26]

On August 15, 2023, Plaintiff filed his Application for Stay under the Act, alleging he is “currently enlisted and is an active member in the United States Air Force.” [ECF No. 27, ¶ 1]

Plaintiff states he is “currently deployed on active duty until September 29, 2023” and that “he is unavailable to participate in this litigation at this time.” [ECF No. 27, ¶¶ 2-3] Plaintiff requests a stay of the proceedings until October 1, 2023. [ECF No. 27, ¶ 8] Plaintiff states that Defendants have consented to his motion. [ECF No. 27, ¶ 7] Plaintiff’s Application for Stay includes an email from Plaintiff and a letter from Plaintiff’s commanding officer explaining that Plaintiff was ordered to active duty on June 2, 2023 and that he will be released from duty on September 29, 2023. [ECF Nos. 27-1, 27-2]

## **II. Discussion**

The Act authorizes a Court to stay a civil action for up to 90 days after completion of a party’s period of military service either on the Court’s motion or upon application of a stay by the party. 50 U.S.C. §3925(a), 3932(b)(1).

A servicemember’s application must include:

(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember’s ability to appear and stating a date when the servicemember will be available to appear.

(B) A letter or other communication from the servicemember’s commanding officer stating that the servicemember’s current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

50 U.S.C. § 3932(b)(2); Midwest Regional Bank v. Caribou Energy Corporation, No. 4:18-CV-1217 RWS, 2018 WL 5013887, at \*1 (E.D. Mo. Oct. 16, 2018). One of the purposes of the Act is “to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.” 50 U.S.C. §3902; Teas v. Ferguson, No. 07-5146, 2007 WL 4106290 at \*1, (W.D. Ark. Nov. 16, 2007).

Plaintiff is presently in military service and, therefore, eligible to seek and receive relief under the Act. Because Plaintiff's Consent Motion to Stay [ECF No. 26] did not include the documentation required by the statute, the motion is denied. Plaintiff's Application for Stay [ECF No. 27], however, does include the necessary documentation. Accordingly, Plaintiff's Application for Stay [ECF No. 27] is granted and the action is stayed until October 1, 2023.

Accordingly, after careful consideration,

**IT IS HEREBY ORDERED** that Plaintiff's Consent Motion to Stay [ECF No. 26] is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff's Application for Stay [ECF No. 27] is **GRANTED** and the action is stayed until October 1, 2023.

  
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PATRICIA L. COHEN  
UNITED STATES MAGISTRATE JUDGE

Dated this 31st day of August, 2023